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August 17, 2023

Via ECF

The Honorable Mary Kay Vyskocil, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 8/17/2023
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Re: *Lorenzo v. Dee Mark Inc. et al.*
Case No.: 23-cv-00048

Dear Judge Vyskocil:

We are counsel to Plaintiff. We write to request a pre-motion conference regarding Defendants' failure to produce any class-wide discovery, notwithstanding the Court's Order, dated June 23, 2023 [Dkt. No. 17].

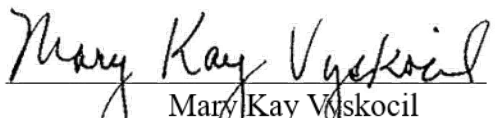
The Court Ordered that Plaintiff was entitled to non-burdensome discovery on the issues of commonality, typicality and numerosity. *See* Dkt. No. 17. Following this Order, on June 29, 2023, counsel for the parties met and conferred to discuss class sampling. Defendants indicated that the class was contained least 150 employees, and the parties agreed that Defendants would produce a 20% sampling of class documents. The parties agreed that by 7/7/23, Defendants would produce a class list for the 3 locations, which they have done; and ultimately that the sampling of class documents would be produced by August 16, 2023.

On August 16, 2023, Defendants informed us that they would not be producing the sampling as agreed. As of the date of this letter, we still have not received any class documents. With the close of discovery set for September 22, 2023, Defendants failure to comply with the Court's June 23, 2023, Order is highly prejudicial to Plaintiff. Additionally, Defendants still have not verified their Interrogatory responses, despite Plaintiff's repeated reminders.

In view of the foregoing, Plaintiff respectfully requests a pre-motion conference regarding Defendants' failure to produce any class-wide discovery. We thank the Court for considering this matter.

The request is DENIED without prejudice to raising this dispute before Magistrate Judge Gorenstein. The Court previously referred the parties' motion for a Local Rule 37.2 Conference to Magistrate Judge Gorenstein. [See ECF No. 16.] "If agreement on the production cannot be reached," Magistrate Judge Gorenstein noted that "a new letter may be addressed to the undersigned that describes the remaining dispute in full and complies with paragraph 2.A of the undersigned's Individual Practices." [ECF No. 17.] Counsel are admonished to comply with Orders of this Court. SO ORDERED.

Date: 8/17/2023
New York, New York


Mary Kay Vyskocil
United States District Judge